

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

John M. Agnello
Melissa E. Flax
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Attorneys for Plaintiffs

DR. FADI CHAABAN, DR. SABINO R.
TORRE, DR. CONSTANTINOS A.
COSTEAS, AND DR. ANTHONY J.
CASELLA as Trustees of Diagnostic &
Clinical Cardiology, P.A. Profit Sharing
Plan,

Plaintiffs,

v.

DR. MARIO A. CRISCITO,

Defendant.

Civil Action No. 2:08-cv-01567 (GEB/MCA)

**DECLARATION OF
ANTHONY J. CASELLA IN SUPPORT
OF PLAINTIFFS' MOTION FOR
AN AWARD OF ATTORNEYS'
FEES AND COSTS**

Return Date: June 6, 2011

I, Anthony J. Casella, being of full age, hereby declare as follows:

1. I am a Plaintiff in the above captioned matter.
2. I am also a member of Diagnostic & Clinical Cardiology, P.A. ("DCC"), the sponsor of the Diagnostic & Clinical Cardiology, P.A. Profit Sharing Plan and the predecessor Money Purchase Plan (collectively the "Plan").

3. I have been employed by DCC since 1977.

4. Plaintiffs became the Trustees of the Profit Sharing Plan in July 2007 (Chaaban, Torre and Costeas) and November 2007 (Casella), following the removal of Defendant as sole Trustee of the Plan.

5. At the beginning of 2000, Defendant caused the Plan's commingled account to be broken into individual segregated accounts. As a result, in 2007, when the Plan discovered Defendant's fraudulent conduct, the Plan had no fund of money from which to pay those attorneys' fees, consultant fees and costs relating to the Plan's claims against Defendant. At that time, DCC, the Plan sponsor, agreed to advance all of the monies necessary to pay those attorneys' fees, consultant fees and costs with the understanding that upon recovery of monies from Defendant, the Plan would reimburse DCC for the monies advanced.

6. Plaintiffs agreed to pay Joy M. Mercer, P.C., Riker Danzig, Carella Byrne and Abar Pension Services, Inc. based upon each firm's normal hourly rates plus out of pocket costs.

7. Plaintiffs agreed to pay Witman Stadtmuer, P.A. at its normal hourly rates plus out of pocket costs with one exception. Stephen M. Charme, Esq. agreed, as a courtesy to Plaintiffs, to reduce his hourly rate by \$50.00 per hour for his services throughout Witman Stadtmuer's representation of Plaintiffs.

8. The following chart sets forth the total amount billed to Plaintiffs, as of the filing of this motion, by the attorneys and consultant that provided services in connection with Plaintiffs' ERISA claims against Defendant:

Exhibit¹	Attorneys/Consultants	Total Fees Billed	Total Costs Billed	Total Amount Billed
A	Joy M. Mercer, P.C.	\$58,835.50	\$5,245.52	\$64,081.02
B	Riker Danzig	\$7,042.00	-----	\$7,042.00
C	Witman Stadtmauer	\$444,248.00	\$6,723.98	\$450,971.98
D	Carella Byrne	\$338,046.50	\$4,189.76	\$342,236.26
E	Abar Pension Services, Inc.	\$27,978.00	-----	\$27,978.00
Totals:		\$876,150.00	\$16,159.26	\$892,309.26

9. The chart below sets forth the amounts paid by DCC to date on behalf of Plaintiffs to the attorneys and consultant that provided services in connection with Plaintiffs' ERISA claims against Defendant:

Exhibit	Attorneys/Consultants	Total Amount Paid
A	Joy M. Mercer, P.C.	\$64,081.02
B	Riker Danzig	\$7,042.00
C	Witman Stadtmauer	\$417,874.48
D	Carella Byrne	\$230,203.61
E	Abar Pension Services, Inc.	\$27,511.00
Total:		\$746,712.11

10. The chart below sets forth the costs paid by DCC to date directly to third party vendors on behalf of Plaintiffs:

Exhibit	Entity	Total	Description of services
F	Lindabury McCormick	\$1,618.12	Court appointed Mediator
G	Rosenberg & Associates	\$1,054.00	Court reporter
H	Miani Court Reporting	\$3,031.70	Court reporter
I	MCD Solutions	\$643.02	Electronic/hardcopy document vendor
		\$6,346.84	

11. Plaintiffs remain obligated to and will pay or cause to be paid the difference between the amounts set forth in Paragraphs 8 and 9 above, *i.e.* \$145,597.15

¹ All exhibits referenced in this Declaration are attached to the Declaration of John M. Agnello in Support of Plaintiffs' Motion for an Award of Attorneys' Fees and Costs.

12. Based on the foregoing, Plaintiffs respectfully request the Court to award attorneys' fees and costs in the total amount of \$898,656.61.

I declare under penalty of perjury that the foregoing is true and correct. Executed on this 26 day of April, 2011.



ANTHONY J. CASELLA